

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CITIZENS FIRST NATIONAL BANK, a
national banking association,

Plaintiff,

v.

HARTMANN PROPERTIES, LLC, an Illinois
limited liability company, CONSOLIDATED
FREIGHTWAYS CORPORATION OF
DELAWARE, a Delaware corporation,
PENSION BENEFIT GUARANTY
CORPORATION, a Federal corporation, MID-
STATES EXPRESS, INC., an Illinois
corporation, UNKNOWN OWNERS and
NON-RECORD CLAIMANTS,

Defendants.

And

PENSION BENEFIT GUARANTY
CORPORATION, a Government Corporation,

Cross-Plaintiff,

v.

HARTMANN PROPERTIES, LLC, an Illinois
limited liability company, CONSOLIDATED
FREIGHTWAYS CORPORATION OF
DELAWARE, a Delaware corporation, MID-
STATES EXPRESS, INC., an Illinois
corporation, UNKNOWN OWNERS and
NON-RECORD CLAIMANTS,

Cross-Defendants.

Case No. 08 C 1642

**MOTION TO DISMISS
COMPLAINT**

NOW COMES the Plaintiff, CITIZENS FIRST NATIONAL BANK, a National banking association, by Howard & Howard Attorneys, P.C., and moves pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure to dismiss its Complaint to Foreclose without prejudice and in support thereof states as follows:

1. This action is one to foreclose a mortgage on real estate. Subsequent to the filing of the Complaint, the Defendant, Pension Benefit Guaranty Corporation ("PBGC"), removed this case from the Circuit Court of LaSalle County, Illinois, to this Court and filed a Counterclaim to foreclose its second mortgage.

2. The Defendant, Hartmann Properties, LLC, an Illinois limited liability company, has paid to the Plaintiff, Citizens First National Bank, all of the delinquency on the mortgage and all costs, expenses and attorneys' fees incurred in connection with the foreclosure action.

3. Because of the payments, the Plaintiff, Citizens First National Bank, has agreed to reinstate the mortgage and to dismiss its Complaint, although the Counterclaim for the PBGC will still be pending.

WHEREFORE, Plaintiff requests the Court to enter an order dismissing its Complaint without prejudice. A draft form of order is attached.

May 29, 2008.

CITIZENS FIRST NATIONAL BANK

By: /s/Timothy J. Howard

Timothy J. Howard

Timothy J. Howard, ARDC No. 01271202
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Peoria, Illinois 61602
Telephone: (309) 672-1483
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CERTIFICATE OF ELECTRONIC FILING
AND CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on May 29, 2008, I electronically filed a true and correct copy of the foregoing document with the Clerk of this Court using the CM/ECF system, which sent notification of such filing to the following:

Joel R. Nathan
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604

I also certify that a true and correct copy of the foregoing document was served by First Class U.S. Mail, postage prepaid, on May 29, 2008 to the following non-CM/ECF participant(s):

Hartmann Properties, LLC
c/o Thomas J. Streit, Registered Agent
1999 West Downer Place, #101
Aurora, Illinois 60506

Mid-States Express, Inc.
c/o Thomas J. Streit, Registered Agent
1999 West Downer Place, #101
Aurora, Illinois 60506

Joel W. Ruderman
Pension Benefit Guaranty Corporation
1200 K Street NW
Washington, DC 20005

/s/ Timothy J. Howard
Timothy J. Howard, ARDC No. 01271202
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**ORDER DISMISSING
THE COMPLAINT**

ORDER

THIS MATTER COMING on to be heard upon the Motion of the Plaintiff, Citizens First National Bank, for Dismissal of its Complaint and the Court having been advised that the mortgage has been reinstated by the Plaintiff, Citizens First National Bank;

IT IS HEREBY ORDERED that the Complaint be and is hereby dismissed without prejudice.

ENTER: this _____ day of _____, 2008.

UNITED STATES DISTRICT JUDGE